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BANK OF AMERICA, N.A.
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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION
11

12 BRYAN PARENT, an individual,
13 Plaintiff,

14 vs.

15 BANK OF AMERICA, N.A., a national
banking association, and DOES 1 through
16 10, inclusive,
17 Defendant.
18

) Case No. **2:15-cv-02716-MMM-VBKx**
) [Assigned to the Hon. Margaret M.
) Morrow

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22 **STIPULATED PROTECTIVE**
ORDER

23 Complaint Filed: April 13, 2015
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1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

B. GOOD CAUSE STATEMENT

This action is likely to involve medical and/or other private/personal information of plaintiff Bryan Parent (“Plaintiff”) and/or other relevant parties, and trade secrets and other valuable research, development, commercial, financial, technical and/or proprietary information of defendant Bank of America, N.A. (“Defendant”) and/or other relevant parties for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. Such confidential and proprietary materials and information consist of, among other things, confidential medical information, business or financial information, information regarding confidential business practices, or other confidential research, development, or commercial information (including information implicating privacy rights of third parties), information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions,

or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: *Bryan Parent v. Bank of America, N.A.*, Case No. 2:15-cv-02716-MMM-VBKx.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff

2.11 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or
4 extracted from Protected Material; (2) all copies, excerpts, summaries, or
5 compilations of Protected Material; and (3) any testimony, conversations, or
6 presentations by Parties or their Counsel that might reveal Protected Material.

7 Any use of Protected Material at trial shall be governed by the orders of the
8 trial judge. This Order does not govern the use of Protected Material at trial.

9 4. DURATION

10 Even after final disposition of this litigation, the confidentiality obligations
11 imposed by this Order shall remain in effect until a Designating Party agrees
12 otherwise in writing or a court order otherwise directs. Final disposition shall be
13 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
14 or without prejudice; and (2) final judgment herein after the completion and
15 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
16 including the time limits for filing any motions or applications for extension of time
17 pursuant to applicable law.

18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.

20 Each Party or Non-Party that designates information or items for protection
21 under this Order must take care to limit any such designation to specific material that
22 qualifies under the appropriate standards. The Designating Party must designate for
23 protection only those parts of material, documents, items, or oral or written
24 communications that qualify so that other portions of the material, documents, items,
25 or communications for which protection is not warranted are not swept unjustifiably
26 within the ambit of this Order.

27 Mass, indiscriminate, or routinized designations are prohibited. Designations
28 that are shown to be clearly unjustified or that have been made for an improper

1 purpose (e.g., to unnecessarily encumber the case development process or to impose
 2 unnecessary expenses and burdens on other parties) may expose the Designating
 3 Party to sanctions.

4 If it comes to a Designating Party's attention that information or items that it
 5 designated for protection do not qualify for protection, that Designating Party must
 6 promptly notify all other Parties that it is withdrawing the inapplicable designation.

7 5.2 Manner and Timing of Designations.

8 Except as otherwise provided in this Order (*see, e.g.*, second paragraph of
 9 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery
 10 Material that qualifies for protection under this Order must be clearly so designated
 11 before the material is disclosed or produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic documents,
 14 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
 15 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter
 16 "CONFIDENTIAL legend"), to each page that contains protected material. If only a
 17 portion or portions of the material on a page qualifies for protection, the Producing
 18 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
 19 markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection
 21 need not designate them for protection until after the inspecting Party has indicated
 22 which documents it would like copied and produced. During the inspection and
 23 before the designation, all of the material made available for inspection shall be
 24 deemed "CONFIDENTIAL." After the inspecting Party has identified the documents
 25 it wants copied and produced, the Producing Party must determine which documents,
 26 or portions thereof, qualify for protection under this Order. Then, before producing
 27 the specified documents, the Producing Party must affix the "CONFIDENTIAL
 28 legend" to each page that contains Protected Material. If only a portion or portions

1 of the material on a page qualifies for protection, the Producing Party also must
 2 clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the
 3 margins).

4 If a document containing “CONFIDENTIAL” Information or Items is
 5 produced by someone other than the Party seeking to designate the document as
 6 confidential, the Party seeking to designate the document as confidential shall, within
 7 thirty (30) days, notify the other parties to the action in writing that it considers the
 8 document to contain “CONFIDENTIAL” Information or Items and the adverse
 9 parties receiving the document shall treat it as confidential, and take steps they deem
 10 reasonably necessary to ensure that others who have received the document treat it as
 11 confidential, in accordance with the terms of this Protective Order. A party may
 12 designate, within thirty (30) days of the date of this Protective Order, as Confidential
 13 any document produced prior to the date of this Protective Order.

14 (b) for testimony given in depositions that the Designating Party identify the
 15 Disclosure or Discovery Material on the record, before the close of the deposition all
 16 protected testimony, or by giving written notice to the parties within a reasonable
 17 time after the Designating Party’s receipt of the transcript containing such testimony.
 18 “Reasonable time” shall normally be 30 days from the Designating Party’s receipt of
 19 the transcript containing such testimony. The parties shall cooperate in allowing
 20 longer or shorter periods of time as needs of the case arise.

21 (c) for information produced in some form other than documentary and for
 22 any other tangible items, that the Producing Party affix in a prominent place on the
 23 exterior of the container or containers in which the information is stored the legend
 24 “CONFIDENTIAL.” If only a portion or portions of the information warrants
 25 protection, the Producing Party, to the extent practicable, shall identify the protected
 26 portion(s).

1 5.3 Inadvertent Failures to Designate.

2 If timely corrected, an inadvertent failure to designate qualified information or
3 items does not, standing alone, waive the Designating Party's right to secure
4 protection under this Order for such material. Upon timely correction of a
5 designation, the Receiving Party must make reasonable efforts to assure that the
6 material is treated in accordance with the provisions of this Order.

7 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
9 designation of confidentiality at any time that is consistent with the Court's
10 Scheduling Order.

11 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
12 resolution process under Local Rule 37.1 *et seq.*

13 6.3 The burden of persuasion in any such challenge proceeding shall be on
14 the Designating Party. Frivolous challenges, and those made for an improper
15 purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other
16 parties) may expose the Challenging Party to sanctions. Unless the Designating
17 Party has waived or withdrawn the confidentiality designation, all parties shall
18 continue to afford the material in question the level of protection to which it is
19 entitled under the Producing Party's designation until the Court rules on the
20 challenge.

21 7. ACCESS TO AND USE OF PROTECTED MATERIAL

22 7.1 Basic Principles. A Receiving Party may use Protected Material that is
23 disclosed or produced by another Party or by a Non-Party in connection with this
24 Action only for prosecuting, defending, or attempting to settle this Action. Such
25 Protected Material may be disclosed only to the categories of persons and under the
26 conditions described in this Order. When the Action has been terminated, a
27 Receiving Party must comply with the provisions of section 13 below (FINAL
28 DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at a
 2 location and in a secure manner that ensures that access is limited to the persons
 3 authorized under this Order.

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
 5 otherwise ordered by the court or permitted in writing by the Designating Party, a
 6 Receiving Party may disclose any information or item designated
 7 “CONFIDENTIAL” only to:

8 a) the Receiving Party’s Outside Counsel of Record in this Action, as well
 9 as employees of said Outside Counsel of Record to whom it is reasonably necessary
 10 to disclose the information for this Action;

11 b) the officers, directors, and employees (including House Counsel) of the
 12 Receiving Party to whom disclosure is reasonably necessary for this Action;

13 c) Experts (as defined in this Order) of the Receiving Party to whom
 14 disclosure is reasonably necessary for this Action and who have signed the
 15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 d) the court and its personnel;

17 e) court reporters and their staff;

18 f) professional jury or trial consultants, mock jurors, and Professional
 19 Vendors to whom disclosure is reasonably necessary for this Action and who have
 20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 g) the author or recipient of a document containing the information or a
 22 custodian or other person who otherwise possessed or knew the information;

23 h) during their depositions, witnesses, and attorneys for witnesses, in the
 24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
 25 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will
 26 not be permitted to keep any confidential information unless they sign the
 27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
 28 agreed by the Designating Party or ordered by the court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may be
 2 separately bound by the court reporter and may not be disclosed to anyone except as
 3 permitted under this Stipulated Protective Order; and

4 i) any mediator or settlement officer, and their supporting personnel,
 5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
 7 OTHER LITIGATION

8 If a Party is served with a subpoena or a court order issued in other litigation
 9 that compels disclosure of any information or items designated in this Action as
 10 “CONFIDENTIAL,” that Party must:

11 a) promptly notify in writing the Designating Party. Such notification shall
 12 include a copy of the subpoena or court order;

13 b) promptly notify in writing the party who caused the subpoena or order to
 14 issue in the other litigation that some or all of the material covered by the subpoena
 15 or order is subject to this Protective Order. Such notification shall include a copy of
 16 this Stipulated Protective Order; and

17 c) cooperate with respect to all reasonable procedures sought to be pursued
 18 by the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with
 20 the subpoena or court order shall not produce any information designated in this
 21 action as “CONFIDENTIAL” before a determination by the court from which the
 22 subpoena or order issued, unless the Party has obtained the Designating Party’s
 23 permission. The Designating Party shall bear the burden and expense of seeking
 24 protection in that court of its confidential material and nothing in these provisions
 25 should be construed as authorizing or encouraging a Receiving Party in this Action to
 26 disobey a lawful directive from another court.

1 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
 2 PRODUCED IN THIS LITIGATION

3 a) The terms of this Order are applicable to information produced by a
 4 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
 5 produced by Non-Parties in connection with this litigation is protected by the
 6 remedies and relief provided by this Order. Nothing in these provisions should be
 7 construed as prohibiting a Non-Party from seeking additional protections.

8 b) In the event that a Party is required, by a valid discovery request, to
 9 produce a Non-Party's confidential information in its possession, and the Party is
 10 subject to an agreement with the Non-Party not to produce the Non-Party's
 11 confidential information, then the Party shall:

12 1) promptly notify in writing the Requesting Party and the Non-
 13 Party that some or all of the information requested is subject to a confidentiality
 14 agreement with a Non-Party;

15 2) promptly provide the Non-Party with a copy of the Stipulated
 16 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 17 specific description of the information requested; and

18 3) make the information requested available for inspection by the
 19 Non-Party, if requested.

20 c) If the Non-Party fails to seek a protective order from this court within 14
 21 days of receiving the notice and accompanying information, the Receiving Party may
 22 produce the Non-Party's confidential information responsive to the discovery
 23 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 24 not produce any information in its possession or control that is subject to the
 25 confidentiality agreement with the Non-Party before a determination by the court.
 26 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
 27 of seeking protection in this court of its Protected Material.
 28

1 immediately (a) notify in writing the Designating Party of the unauthorized
 2 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected
 3 Material, (c) inform the person or persons to whom unauthorized disclosures were
 4 made of all the terms of this Order, and (d) request such person or persons to execute
 5 the "Acknowledgment and Agreement to Be Bound" that is attached hereto as
 6 Exhibit A.

7 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
 8 PROTECTED MATERIAL

9 When a Producing Party gives notice to Receiving Parties that certain
 10 inadvertently produced material is subject to a claim of privilege or other protection,
 11 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
 12 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
 13 may be established in an e-discovery order that provides for production without prior
 14 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
 15 parties reach an agreement on the effect of disclosure of a communication or
 16 information covered by the attorney-client privilege or work product protection, the
 17 parties may incorporate their agreement in the stipulated protective order submitted
 18 to the court.

19 11. MISCELLANEOUS

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 21 person to seek its modification by the Court in the future.

22 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 23 Protective Order no Party waives any right it otherwise would have to object to
 24 disclosing or producing any information or item on any ground not addressed in this
 25 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 26 ground to use in evidence of any of the material covered by this Protective Order.

27 12.3 Filing Protected Material. A Party that seeks to file under seal any
 28 Protected Material must comply with Civil Local Rule 79-5. Protected Material may

only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

12. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION)

14. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 Pursuant to Civil Local Rule 5-4.3.4 of the United States District Court for the
3 Central District of California, Evelyn Wang, counsel for Defendant, attests that she
4 has obtained concurrence in the filing of this document from Mr. Eliot Rushovich,
5 counsel for Plaintiff, on June 24, 2015.

6 DATED: June 26, 2015

RUSHOVICH MEHTANI LLP
ELIOT J. RUSHOVICH
LISA M. WATANABE-PEAGLER
COLIN S. RUSHOVICH

9 By: /s/ Eliot J. Rushovich
Eliot J. Rushovich
10 Attorneys for Plaintiff
BRYAN PARENT

12 DATED: June 26, 2015

DAVIS WRIGHT TREMAINE LLP
CAMILO ECHAVARRIA
EVELYN F. WANG

14 By: /s/ Evelyn F. Wang
Evelyn F. Wang
15 Attorneys for Defendant
BANK OF AMERICA, N.A.

17
18 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

19
20 DATED: June 26, 2015

21
22 /s/
Honorable Victor B. Kenton
23 United States Magistrate Judge
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EXHIBIT A
ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury
 that I have read in its entirety and understand the Stipulated Protective Order that was
 issued by the United States District Court for the Central District of California
 on [date]_____ in the case of Bryan Parent v. Bank of America, N.A., Case
 No. 2:15-cv-02716-MMM-VBKx. I agree to comply with and to be bound by all the
 terms of this Stipulated Protective Order and I understand and acknowledge that
 failure to so comply could expose me to sanctions and punishment in the nature of
 contempt. I solemnly promise that I will not disclose in any manner any information
 or item that is subject to this Stipulated Protective Order to any person or entity
 except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
 Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print
 or type full name] of _____ [print or type
 full address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this
 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____